

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 14

July 21, 2015

APPROVED BY THE BOARD OF POLICE COMMISSIONERS ON JULY 21, 2015

SUBJECT: STATEMENTS FOR OFFICER-INVOLVED SHOOTINGS, IN-CUSTODY DEATHS, AND USE OF FORCE INCIDENTS RESULTING IN SIGNIFICANT INJURY – REVISED; FORCE INVESTIGATION DIVISION – INVESTIGATIONS – REVISED; HEARD ONLY WITNESS FORM FOR LAPD SWORN, FORM 01.71.02 – ACTIVATED; AND, HEARD ONLY WITNESS FORM FOR CIVILIANS, FORM 01.71.03 – ACTIVATED

PURPOSE: This Order revises the procedures for interviewing and documenting the statements of “heard only” witnesses to a Categorical Use of Force. Force Investigation Division (FID) may classify a sworn officer or civilian witness as a “heard only” witness if they meet certain criteria and with the approval of the on-scene FID Lieutenant/Officer in Charge. Additionally, this Order activates the Heard Only Witness Form For LAPD Sworn, Form 01.71.02, and the Heard Only Witness Form For Civilians, Form 01.71.03. These forms will be used if a witness is classified as “heard only” by FID.

PROCEDURE:

- I. STATEMENTS FOR OFFICER-INVOLVED SHOOTINGS, IN-CUSTODY DEATHS, AND USE OF FORCE INCIDENTS RESULTING IN SIGNIFICANT INJURY - REVISED.** Attached is the revised Manual Section 3/794.26, with the revisions indicated in italics.
- II. FORCE INVESTIGATION DIVISION - INVESTIGATIONS – REVISED.** Attached is the revised Manual Section 3/794.37, with the revisions indicated in italics.
- III. HEARD ONLY WITNESS FORM FOR LAPD SWORN, FORM 01.71.02 – ACTIVATED.** The Heard Only Witness Form For LAPD Sworn, Form 01.71.02, has been activated.
 - A. Use of Form.** This form will be used to document the statements of a sworn employee classified as “heard only” witness to a categorical use of force by FID.
 - B. Completion.** This form will be completed by the FID investigating officer obtaining the statement from the witness.
 - C. Distribution.**
 - 1 – Original, retained by the FID investigating officer obtaining the statement from the witness.
 - 1 – TOTAL

IV. HEARD ONLY WITNESS FORM FOR CIVILIANS, FORM 01.71.03 -

ACTIVATED. The Heard Only Witness Form For Civilians, Form 01.71.03, has been activated.

A. Use of Form. This form will be used to document the statements of a civilian (including outside agency personnel) classified as "heard only" witness to a categorical use of force by FID.

B. Completion. This form will be completed by the FID investigating officer obtaining the statement from the witness.

C. Distribution.

1 – Original, retained by the FID investigating officer obtaining the statement from the witness.

1 – TOTAL

FORM AVAILABILITY: The Heard Only Witness Form for LAPD Sworn and the Heard Only Witness Form for Civilians are attached for immediate use and duplication, and are accessible in E-Forms, on the Department's Local Area Network (LAN).

AMENDMENTS: This Order amends Sections 3/794.26 and 3/794.37 of the Department Manual. The "Form Use" link applicable to the Heard Only Witness Form for LAPD Sworn and the Heard Only Witness Form for Civilians are accessible in E-Forms on the Department's LAN.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.

A handwritten signature in blue ink, appearing to read "Charlie Beck", with a stylized flourish at the end.

CHARLIE BECK
Chief of Police

Attachments

DISTRIBUTION "D"

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794.26 STATEMENTS FOR OFFICER-INVOLVED SHOOTINGS, IN-CUSTODY DEATHS, AND USE OF FORCE INCIDENTS RESULTING IN SIGNIFICANT INJURY.

The statements of involved officers and civilian witnesses who actually witnessed the incident shall be *electronically* recorded, *unless certain criteria are met and approval by the on-scene Force Investigation Division Lieutenant/Officer in Charge (OIC) is obtained (Department Manual Section 3/794.37).*

794.37 FORCE INVESTIGATION DIVISION – INVESTIGATIONS.

Response and Crime Scene Responsibilities. Force Investigation Division (*FID*) shall be available to respond 24-hours a day to incidents for which it has investigative responsibility. Upon receiving notification of an incident, a FID investigator shall respond to the scene promptly. When multiple investigating entities are present (i.e., Area detectives), the senior FID member present shall have overall command of the crime scene and the on-scene investigation. This does not preclude the Chief of Police or his/her designee from assuming command when there is a specific need to do so.

Force Investigation Division Investigative Guidelines. Force Investigation Division investigators shall follow established Department procedure for investigating all incidents for which it has investigative responsibility. Additionally, FID investigators shall:

- Record all interviews (i.e., audio or video recording) of involved officers and witnesses (if not recorded, provide justification);

Exception: This exception only applies to officer-involved shootings. Heard only witness statements shall be documented on the Heard Only Witness Form for LAPD Sworn, Form 01.71.02, or a Heard Only Witness Form for Civilians, Form 01.71.03, when approved by the on-scene FID Lieutenant/Officer In Charge (OIC). The Heard Only Witness Form for Civilians is also used to document the statements of outside agency personnel classified as a "heard only" witness. These statements do not need to be electronically recorded.

Note: Whenever possible, recorded interviews should include a complete record of the interview including a preamble and interview conclusion.

- Interview civilian witnesses at locations and times convenient to them, whenever it is practical and appropriate;
- Prohibit group interviews;

Note: If the subject of the use of force or a civilian witness was not interviewed separately, document that the witness(s) was not interviewed separately along with an explanation.

- Interview all involved supervisors (applies only to those actively involved in managing the scene) regarding their management of the scene during the incident;
- Coordinate the collection and preservation of all appropriate evidence, including canvassing the scene to locate possible witnesses, if appropriate;

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- Ensure that all officer's and suspect's injuries are photographed (if no photographs are taken, provide an explanation why); and,
- Identify and document all inconsistencies in officer and witness interview statements.

Heard Only Witnesses. This applies to officer-involved shootings only. Witnesses that meet the criteria for being classified as a "heard only" witness shall have their statements documented on the Heard Only Witness Form for LAPD Sworn or Heard Only Witness Form for Civilians. These statements do not need to be electronically recorded.

In order for a witness to be considered "heard only," the following requirements must be met:

For Sworn:

- *The officer is not the partner of an officer who used force;*
- *The officer is not the partner of an officer who heard conversations or observed activity between the involved officer(s), suspect(s) or key witnesses;*
- *The officer only heard gunshots and did not witness any other aspect of the incident under investigation; and,*
- *The FID Lieutenant/OIC determined there is no further investigative value in determining the rate, sequence, or any other relevant audible characteristic of the gunshots heard in connection with the case under investigation.*

For Civilians:

- *The civilian witness only heard gunshots;*
- *The civilian witness did not witness any part of the incident leading up to the officer-involved shooting;*
- *The civilian witness did not hear any verbal conversations or commands prior to or after the officer-involved shooting; and,*
- *The FID Lieutenant/OIC determined there is no further investigative value in determining the rate, sequence, or any other relevant audible characteristic of the gunshots heard in connection with the case under investigation.*

Liaison with the District Attorney and Inspector General. The assigned FID investigator or his/her supervisor shall liaise with the assigned deputy district attorney and Inspector General to ensure that both are briefed and allowed to observe the investigation.

Test Firing of Firearms Used in Categorical Use of Force Incidents. As part of Categorical Use of Force (CUOF) investigation protocol, FID investigators *shall* retain any firearm discharged by an officer during a CUOF incident so that ballistic testing of the firearm can be completed. The involved officer will receive a replacement firearm from FID until his/her firearm is returned. The firearm will be returned to the involved employee immediately after testing is completed.

In certain instances, it may be necessary to obtain all or portions of the involved officer's leather gear, badge, boots or uniform. If an officer requires leather gear replacement, he/she *shall* complete a Supply Order Form, Form 15.11.00, and forward it to the Uniform Shop, Supply Section, Fiscal Operations Division (FOD). If an officer requires a badge replacement, he/she

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shall complete an Intradepartmental Correspondence, Form 15.02.00, *directed* to the Commanding Officer, Personnel Division. If an officer requires uniform or boot replacement, he/she must purchase the items and then complete an Intradepartmental Correspondence *directed* to the Commanding Officer, FOD, for reimbursement.

Watch Commander/Incident Commander's Responsibilities. After all public safety concerns have been addressed, the watch commander, Area of occurrence, or incident commander shall ensure that involved officers and witness officers are transported from the scene, physically separated unless logistical problems (e.g., the number of involved officers and/or supervisors) preclude individual separation, and monitored to eliminate the possibility of contaminating their statements prior to their interview by FID personnel. During that time, the watch commander/incident commander shall ensure that the welfare of the involved officer(s) is addressed.

Duty to Assess Supervisor's Response. Within seven calendar days of a *CUOF* incident, the commanding officer of a supervisor who responds to a *CUOF*, in consultation with FID, shall:

- Analyze the circumstances surrounding the presence or absence of a supervisor at a *CUOF* incident;

Note: "Supervisor" is defined as the first responding supervisor to a *CUOF* incident, not a supervisor who was a witness or an involved party. The analysis shall also address the response of any subsequent supervisor(s) who assumes command of the incident.

- Determine if a supervisor's response to, and actions at, the incident were appropriate (i.e., ensuring medical treatment was provided, facilitating the search for outstanding suspects and/or weapons, establishing a perimeter, protecting the crime scene, canvassing for witnesses, ensuring separation of officers, bringing appropriate resources to the scene, promptly notifying the Department Command Post, etc.);
- Identify training issues, if any;
- Document the analysis on an Employee Comment Sheet, Form 01.77.00, as outlined in *Department Manual* Section 3/760.13. The documented analysis shall reflect specificity and individuality;
- Discuss the commanding officer's analysis with the involved supervisor(s);
- Take appropriate administrative action as necessary; and,
- File the Employee Comment Sheet in the divisional *Employee Comment File*, and ensure the information is taken into account in the supervisor's next performance evaluation.

Note: Lieutenants in charge of Area detective divisions as commanding officers **shall not** conduct this assessment.

The involved employee's commanding officer shall prepare and forward an Intradepartmental Correspondence, to the Commanding Officer, FID, no later than seven calendar days following the incident confirming that an assessment was conducted. The *Intradepartmental Correspondence* shall contain the following:

- FID case number;

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- Date of occurrence;
- Name and serial number of the supervisor(s) assessed; and,
- Date the analysis was conducted.

The original *Intradepartmental Correspondence* shall be retained by FID with its investigation, and a copy shall be maintained at the Area/divisional level. Appropriate supervision for these incidents shall also be addressed by the Use of Force Review Board and any action with respect to supervision generally should flow from that process.

HEARD ONLY WITNESS FORM FOR LAPD SWORN

FID No. _____

The information provided below is considered a completed statement by the officer.

1. "Are you the partner of an officer who used force?" If YES, this is NOT a "heard only" witness.
2. "Are you the partner of an officer who heard conversations or observed activity between the involved officer(s), suspect(s) or key witnesses?" If YES, this is NOT a "heard only" witness.
3. "Did you only hear gunshots and did not witness any other aspect of the incident under investigation?" If YES, proceed to Question No. 4.
4. Has a FID Lieutenant/OIC determined there is no further investigative value in determining the rate, sequence, or any other relevant audible characteristic of the gunshots heard in connection with the case under investigation? If YES, use this form. FID Lieutenant/OIC: _____

Name and Serial No.: _____

Division and Unit: _____

Date/Time of Interview: _____

What was the date and time you responded to this incident?	
What was the approximate time you heard the gunshots?	
Where were you exactly when you heard the gunshots?	
How many gunshots did you hear?	
Can you describe how the sequence of the gunshots sounded (i.e., consecutive, pauses, volleys, different calibers)?	
Did the gunshots sound the same? Or, were there shots that sounded different?	
Was there anyone else who was with you when you heard the gunshots? Who? Name and contact information?	
What was your duty or responsibility at the OIS crime scene?	

Witness's Signature: _____

Investigator's Signature: _____

HEARD ONLY WITNESS FORM FOR CIVILIANS

FID No. _____

1. "Did you witness any part of this incident leading up to and including the Officer-Involved Shooting?"
If YES, this is **NOT** a "heard only" witness.
2. "Did you hear any verbal conversations, commands, etc. prior to or after the Officer-Involved Shooting?" If YES, this is **NOT** a "heard only" witness.
3. "Did you only hear gunshots?" If YES, proceed to Question No. 4.
4. Has a FID Lieutenant/OIC determined there is no further investigative value in determining the rate, sequence, or any other relevant audible characteristic of the gunshots heard in connection with the case under investigation? If YES, use this form. FID Lieutenant/OIC: _____

Name: _____

Address: _____

Telephone Number: _____

Date/Time of Interview: _____

Where were you exactly when you heard the gunshots?	
What was the date and approximate time you heard the gunshots?	
How many gunshots did you hear?	
Can you describe how the sequence of the gunshots sounded (i.e., consecutive, pauses, volleys, different calibers)?	
Did the gunshots sound the same? Or, were there shots that sounded different?	
Was there anyone else who was with you when you heard the gunshots? Who? Name and contact information?	

Witness's Signature: _____

Investigator's Signature: _____